



DECISION '98

A GUIDE TO PROPOSED CONSTITUTIONAL AMENDMENTS

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This fall in two separate statewide elections, one in October and one in November, Louisiana voters will face a long list of proposed changes to the State Constitution. There are 18 proposed constitutional amendments or propositions on the October ballot and 2 on the November ballot.

All of the amendments were approved by a two-thirds vote of each house of the State Legislature before being placed on the ballot. Some were approved in 1997, some in 1998. There was no regularly scheduled statewide election during 1997. State lawmakers opted to election just to consider the proposed changes to the State election year.

The proposals affect education and special tax breaks and the rights of crime victims. what a proposed change in the State always easy. Constitutional amendments on a ballot can be difficult to understand, written in necessary, but often confusing, technical language.



scheduled statewide election during save taxpayers the cost of a special amendments, so all of the Constitution face voters this

everything from higher to charity hospital management However, determining exactly Constitution is supposed to do is not

Considering state law limits a voter in Louisiana to three minutes in the voting booth, getting a head start on whether to vote for or against an amendment is important, especially this election year. Following is a brief discussion of the proposed amendments including a summary of how the State Constitution addresses the issue now and how the amendment proposes to address the issue.

For additional information, check the Louisiana Senate home page on the Internet at www.legis.state.la.us or call the Senate Public Information Office in Baton Rouge at 225-342-9737. On the Internet, you can find a copy of each proposed amendment by going to Louisiana State Legislature *Archive of Prior Legislative Sessions*. Find the session in which the bill proposing the amendment passed and click on *House and Senate Bills & Resolutions, Bill Digest, and Amendments*. Select either HB (House Bill) or SB (Senate Bill), enter the bill number and click on search. The final version of the bill or the enrolled bill details the proposed amendment.

PROPOSED CONSTITUTIONAL AMENDMENTS

OCTOBER 3, 1998 ELECTION

No. 1 Creates the Community and Technical College System (SB 1 1998 1st Ext. Session)
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- ◆ The present State Constitution establishes three higher education management boards, coordinated under the Board of Regents. These management boards oversee higher education in Louisiana, including the state's two-year colleges. Louisiana's vocational-technical schools are managed separately by the Board of Elementary and Secondary Education (BESE), which also oversees K-12 education in the state.

- ◆ The proposed amendment creates a fourth management board, the Board of Supervisors of Community and Technical Colleges. The new board will oversee the operation and development of the state's new community and technical college system, composed of existing community colleges and vocational-technical institutions. Like the other higher education management boards, the new board will answer to the Board of Regents, giving the Regents the authority to coordinate all four management boards and the entire post-secondary education system.

The proposed change in the State Constitution will affect the operation and management of all existing two-year colleges, except those two-year institutions operated by LSU and SU. All vocational-technical colleges will be managed by the new board, not by BESE. The proposed amendment also includes safeguards to make sure existing post-secondary schools are not adversely affected by the new system. If approved by voters, the new community and technical college board should be in place by July 1, 1999.

No. 2 Increases Parish Governments' Share of Certain Severance Taxes (HB 720 1997 Reg. Session)

- ◆ Under the current State Constitution, a parish government gets one-fifth of the severance tax collected by the state in that parish on certain natural resources, mostly oil and gas. The maximum amount any parish can receive from this state severance tax is \$500,000 a year.

- ◆ The proposed constitutional amendment raises the maximum amount a parish can get each year from the severance tax on certain natural resources from \$500,000 to \$750,000.

Parish governments pushed for the change in the State Constitution. Parish officials argued they should get a bigger piece of the "severance tax pie" to off-set the cost of building and maintaining the infrastructure - like roads and bridges - which supports the industries paying the severance tax. If voters approve the amendment, certain parish governments will get more state severance tax money beginning in July, 1999. At the same time, state

government will have to do with less. The Legislative Fiscal Office estimates the state will give up about \$5.7 million in severance taxes to parish governments each year.

No. 3 Allows the State Legislature to Provide for the Supervision of Certain Public Hospitals by a Public Higher Education Board (HB 549 1997 Reg. Session)
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- ◆ Currently, the State Constitution does not address this issue specifically.
- ◆ The proposed amendment adds a section to the State Constitution regarding the powers and authority of higher education management boards. The new section gives the legislature the authority to set up a system through the Board of Regents or any other higher education board to supervise most state-run public hospitals.

The proposed amendment formalizes in the State Constitution a new system for supervising and managing the so-called Charity Hospital system in Louisiana, while maintaining legislative input and say in the system. State lawmakers approved the new system back in 1997 when they abolished the old Louisiana Health Care Authority and moved oversight of most public hospitals to the LSU Medical School. LSU in cooperation with Tulane and other private entities are working to bring the best of medical education and management to the state supported health care system.

No. 4 Provides for Victims' Rights (SB 330 1997 Reg. Session)
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- ◆ The current Louisiana State Constitution includes no specific provisions guaranteeing the rights of crime victims.
- ◆ The proposed amendment adds a section to the State Constitution creating the crime victims' bill of rights. The new section provides for the right of individuals who are victims of crimes to be treated with respect and fairness; the right to be notified of and participate in all critical stages of the criminal proceedings; the right to be notified of an escape or release; the right to seek restitution and more.

There are now some state laws addressing the rights of crime victims. Additionally, some prosecutors and courts around the state already have policies involving crime victims in the criminal justice process. However, there is no statewide, comprehensive program to protect the rights of the victims of crimes. The proposed amendment guarantees those rights constitutionally and requires the State Legislature to pass laws regarding those rights.

No. 5 Creates the Budget Stabilization Fund (HB 873 1997 Reg. Session)

- ◆ The State Constitution currently establishes a kind of "rainy day" fund called the Revenue Stabilization/Mineral Trust Fund. Voters created the fund in the State

Constitution back in 1990 as a way for the state to put away extra mineral revenues for a “rainy day”, to have a state savings account of sorts that could be used to avoid cuts in state services if state government fell on bad financial times. The problem is no money has ever gone into the fund since mineral revenue collections have never reached the level where allocations to the trust fund kick in.

- ◆ The proposed amendment to the State Constitution changes the Revenue Stabilization/Mineral Trust Fund to the Budget Stabilization Fund and requires at least 25% of non-recurring revenues from various sources to be placed in the fund, as well as any excess mineral revenues, until the state savings account deposits equal 4% of the prior year state budget. The amendment also outlines when and how the savings account funds can be used in tight state financial times. It further expands the use of non-recurring revenues to include reduction of state debt, reduction of the unfunded accrued liability of the state’s retirement systems and financing of state construction projects.

If approved by voters, the state will have to start putting money into the “rainy day” fund when non-recurring or so-called one-time monies are certified as available by the Revenue Estimating Conference. The state has enjoyed non-recurring revenues from state budget surpluses for the last five years. Additionally, a law approved by lawmakers in 1997 requires about one-third of the money due the state each year from the land-based casino in New Orleans, when it opens, to be deposited in the Budget Stabilization Fund. State financial experts say the creation of a workable “rainy day” fund could help the state get a better bond rating which saves taxpayers interest costs when state government borrows money for construction projects.

No. 6 Authorizes Denial of Bail for Those Charged with Violent or Certain Drug-Related Crimes (HB 667 1997 Reg. Session)

- ◆ The current State Constitution guarantees a person accused of a crime the right to bail before or during a trial, unless the accused is charged with a capital offense and presumption of guilt is great.
- ◆ The proposed amendment adds a new set of circumstances under which bail can be denied. The amendment allows the courts, after a hearing, to deny bail to those accused of violent crimes and specific drug offenses as defined in state law, if it is determined the accused is a significant threat to any person or the community or is likely to flee.

If the amendment is approved by voters, certain accused criminals in Louisiana will find it more difficult to be granted bail. The accused will still have a right to a hearing. The evidence against the accused must be clear and convincing and the presumption of guilt great. Whether or not an accused criminal is affected by the change in the State

Constitution will depend on the crime. The amendment refers to certain drug crimes as defined by the Louisiana Controlled Dangerous Substance Law and violent crimes as defined by law. Under current Louisiana law, which can be changed by a majority vote of the State Legislature, crimes of violence include a wide range of offenses, from aggravated rape and aggravated assault to purse snatching.

No. 7 Authorizes the Use of Public Funds through a State Infrastructure Bank (SB 215 1997 Reg. Session)
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- ◆ Currently, the State Constitution prohibits the donation, loan or pledge of public funds, credit or property to any person, association or corporation with some exceptions.
- ◆ The proposed amendment adds an exception to allow the loan, pledge or use of public funds by a state infrastructure bank to access federal funds for capital improvement projects.

A state infrastructure bank is a new program in use in a number of other states across the country as an alternative means of financing community improvements like roads, bridges and mass transit projects. The banks use federal seed money matched with state funds to provide low interest loans and credit enhancements to communities and public-private groups for infrastructure improvements.

If approved by voters, the amendment allows Louisiana to access up to \$1.5 million in federal funds over six years to help finance road, bridge and mass transit improvements through the state's infrastructure bank. With limited tax dollars and growing infrastructure needs, this is an alternative means of paying for needed improvements in our communities. A separate state law, approved by lawmakers in 1997, outlines specifically how the infrastructure bank in Louisiana operates.

No. 8 Provides a Property Tax Break for Certain Homeowners 65 Years of Age or Older (SB 320 1997 Reg. Session)

- ◆ The present State Constitution sets up a system for assessing the value of property for ad valorem tax purposes, requiring re-assessment at least every four years and detailing certain exemptions, including the homestead exemption. Homeowners whose property is fair market valued at \$75,000 or less are exempt from most local property taxes. As property is re-assessed and fair market values increase, property owners who previously were "homestead exempt" start paying the local taxes.
- ◆ The proposed amendment provides a way for certain homeowners to get a tax break, even when the fair market value of their home increases. The amendment

establishes a special property tax assessment level for homeowners 65 years of age or older. The special assessment level also applies to the owner's surviving spouse who is 55 years of age or older or who has minor children. Basically, the assessed value of the home for ad valorem tax purposes is frozen at the level existing when the qualified homeowner applies for and receives the special assessment level. The homeowner must apply for renewal of the special assessment each year.

Homeowners whose individual annual income or combined income with a spouse is \$50,000 or more are not eligible for the tax break. A homeowner loses the tax break if the property value is increased by 25% or more through additional construction or renovation.

If approved by voters, the special property tax assessment available to certain older citizens goes into effect January 1, 2000. Authors of the amendment proposed the constitutional change to encourage older citizens, who often live on fixed incomes and cannot afford property tax increases as assessed property values go up, to stay in Louisiana and to encourage older citizens in other states to move to Louisiana. The amendment does not affect the current constitutional authority of local governments and other taxing authorities to adjust property tax millage rates. Any increase or decrease in millage rates would still apply to all property owners, even those with property assessed at a frozen level.

No. 9 Prohibits Certain Convicted Felons from Holding Public Office for 15 Years (SB 321 1997 Reg. Session)
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- ◆ The State Constitution prohibits a person from voting if the individual is currently imprisoned for a felony conviction, or if the person has been declared mentally incompetent by a court. The State Constitution does not specifically address the right of a person to hold public office after release, although a state law bans a convicted felon, unless pardoned, from seeking or holding elective office. Appointed positions are not addressed in either state law or the State Constitution.
- ◆ The proposed amendment adds a section in the State Constitution to prohibit certain convicted felons from holding public office, even after serving their time. A convicted felon, after release, could not hold elected or appointed public office for fifteen years after the completion of the sentence, unless the individual has been pardoned for the crime.

If approved by voters, the new requirement to hold public office would affect all elections in the state, as well as the thousands of appointed positions on the state, parish and local levels.

No. 10 Prevents Any State Court from Levying Taxes or Ordering the Levying of Taxes (SB 290 1997 Reg. Session)

- ◆ The present State Constitution grants the power of taxation *solely* to the Legislature, with some limited exceptions for certain local government taxes.
- ◆ The proposed amendment retains the sole power of the State Legislature to levy a tax and adds a specific ban on the right of Louisiana courts to tax. It prohibits a state court from levying a tax, repealing a tax exemption or levying a tax increase and further prohibits the courts from ordering local or state governments to do so.

This amendment is an effort to emphasize and strengthen the sole authority of the legislature to tax in Louisiana. So far, there have been no incidences in Louisiana where courts have tried to exercise taxing powers, but there have been such cases in other states. In Kansas, a federal court ordered a tax in a school desegregation case. While the change in the State Constitution does not address federal court intervention, it emphasizes Louisiana's intent to prohibit courts from levying taxes, something the federal government would have to consider before getting involved in a Louisiana matter.

No. 11 Provides for the Sovereign Right of Louisiana to Govern Itself (SB 295 1997 Reg. Session)

- ◆ Presently, the State Constitution includes a Declaration of Rights. It outlines certain rights of Louisiana citizens and its government.
- ◆ The proposed amendment adds a section to the Declaration of Rights in the State Constitution to formally declare the sovereign or independent right of the people of Louisiana to govern themselves.

This amendment is proposed as part of a nationwide push to emphasize the rights of states to govern themselves without interference from the federal government.

No. 12 Specifically Requires Public Notice of Hearing on Proposed Property Tax Millage Increases By Local or Parish Governments or Other Taxing Authorities (HB 196 1997 Reg. Session)

- ◆ Now local and parish governments and other taxing authorities, like school boards and special taxing districts, have the right to increase property tax millage rates to a certain level when the value of property is reappraised for taxing purposes at least every four years as required by the State Constitution. The increased millage must be approved by a two-thirds vote of the taxing authority and only after a public hearing held according to the state's open meetings law.

- ◆ The amendment adds specific requirements regarding notice to citizens about the already required public hearing on the millage increases.

If voters approve the change in the State Constitution, local and parish governments and other taxing authorities considering millage rate increases after the reappraisal of property values will have to publish a notice of the public hearing, on two separate days, at least thirty days before the hearing is scheduled. The notice must appear in the publication serving as the official journal for the governing body and in another newspaper with a larger circulation, if one is available in the area.

No. 13 Expands the Authority of the Interim Emergency Board to Act to Avoid Flood Emergencies (HB 852 1997 Reg. Session)

- ◆ The current State Constitution creates the Interim Emergency Board. By majority vote of the board members and with the approval of two-thirds of the State Legislature via a mail ballot, the board can authorize the spending of state funds to meet emergency situations when the legislature is not in official session.
- ◆ The proposed amendment gives the Interim Emergency Board the authority to not only respond to emergencies as they occur, but to respond to certain pending flood emergencies before they occur. If the potential emergency situation threatens a dam, a levee or other flood protection structure and the U.S. Army Corps of Engineers or the U.S. Coast Guard declare the situation an emergency, the Board can act to avoid the emergency. The Interim Emergency Board cannot allocate more than \$250,000 to avoid any one flood emergency and cannot use more than 25 percent of available state emergency funds for impending flood emergencies.

The amendment gives the state, through the Interim Emergency Board, a way to try to hold down the cost to taxpayers of pending flood emergencies. The idea is to try to limit possible loss of lives and property from a flood by acting before, rather than after, the event.

No. 14 Allows Consolidation of Felony Trials and Changes Required Jury Vote for Verdict in Certain Felony Trials (SB 282 1997 Reg. Session)
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- ◆ The State Constitution now sets the number of jurors required for felony trials and the number of jurors on the panel who must agree to reach a verdict in the trial. The size of the jury and the required number for a verdict depends on the possible sentence connected to the alleged crime.
- ◆ The proposed amendment changes the number of jurors who must agree to reach a verdict in a specific kind of felony trial, a trial involving a possible punishment of

imprisonment with or without hard labor for more than six months. Five of six jurors must agree in such cases now. The amendment requires all six to agree on a verdict. A section is also added to the State Constitution to allow prosecutors, under certain circumstances, to try someone on more than one felony charge at a time. When certain felony charges are “joined”, so to speak, the jury must be composed of twelve people and ten of the twelve must agree to a verdict.

Prosecutors hope the change in the State Constitution will help the state better handle the backlog of criminal court cases without affecting an accused criminal’s rights. State fiscal officials say the new flexibility to handle certain multiple felony charges in one trial could save taxpayers money.

No. 15 Allows Local Governments to Forego Tax Liens on Certain Blighted Property (SB 29 1998 Reg. Session)

- ◆ The present State Constitution prohibits state and local governments from donating, loaning or pledging anything of value to any person, association or corporation with some specific exceptions. Forgoing or deducting taxes, penalties and interest owed to local governments on blighted property under certain circumstances is not one of those exceptions.
- ◆ The proposed amendment adds to the exceptions to allow local governments to forgo tax liens against blighted property, if the owner sells the property below appraised value under certain circumstances. For the owner to get the tax lien break, the property buyer must renovate the blighted property according to a plan approved by the local government. The buyer cannot be a member of the owner’s immediate family or an entity in which the owner has a substantial economic interest.

The proposed change in the State Constitution is aimed at encouraging renovation and rehabilitation of blighted and dilapidated properties across the state. Local governments will lose some tax monies by not collecting the back taxes on the blighted property, but they will also gain revenue from taxes on the improved properties.

No. 16 Authorizes Additional Tax Breaks For Certain Economic Development Projects (SB 32 1998 Reg. Session)
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- ◆ The present State Constitution allows property owners, with the okay of the State Board of Commerce and Industry, the governor and local government, to get a tax break for up to ten years on downtown property renovated, restored, expanded or improved for residential purposes. The property tax break is initially approved for five years and can be renewed for five additional years.

- ◆ The proposed amendment allows the property tax break for owners of downtown property that is renovated for residential purposes to be renewed a second time, extending the tax break to a maximum of fifteen years.

This amendment authorizes an additional incentive for developers to purchase and/or renovate downtown properties for residential purposes by extending the possibility of a tax break for such improvements from ten years to fifteen years.

No. 17 Allows Certain Local Governments to Sell Property To Pay a Portion of Back Taxes Owed (HB 857 1997 Reg. Session)
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- ◆ Currently, the Louisiana Constitution allows a local tax collector to sell a debtor's property to a bidder for the amount of taxes, interest and costs associated with the property. The debtor can redeem the property for up to three years after the sale by paying back the tax sale price, costs and penalties associated with the property.
- ◆ The proposed amendment gives special authority to municipalities with a population of more than 450,000 to sell property to cover back taxes. In such municipalities, if no one bids the minimum required amount to cover the back taxes on a debtor's property at a tax sale, the property could be sold at a later tax sale even if the offered price did not cover all of the taxes, interest and costs owed.

Since the proposed change in the State Constitution only applies to municipalities with a population over 450,000, New Orleans is the only city that would be affected by the change at this time.

No. 18 Allows the Town Of Vidalia to Exempt Certain Property from Local Property Taxes (HB 77 1998 Reg. Session)

- ◆ The State Constitution now allows local governments to levy a property tax within certain limits. It also lists specific items that are or can be exempt from such taxes.
- ◆ The proposed amendment adds a section to the State Constitution to allow the town of Vidalia in Concordia Parish to exempt certain properties from local property taxes now authorized in the constitution. Owners of property in Vidalia assessed at \$20,000 or less could be exempt from paying local property taxes.

The amendment is proposed to give the town of Vidalia a way to encourage development and investment in the area with a special local property tax break.

**PROPOSED CONSTITUTIONAL AMENDMENTS
NOVEMBER 3, 1998 ELECTION**

No. 1 Changes the Name of the Board of Trustees for State Colleges and Universities (SB 42 1998 1st Ext. Session)

- ◆ The present State Constitution sets up and defines the powers of the boards that manage the state's colleges and universities. One of the boards is currently designated the Board of Trustees for State Colleges and Universities, which manages all institutions of higher education not specifically placed under the jurisdiction of another higher education management board.
- ◆ The proposed amendment simply changes the name of the Board of Trustees for State Colleges and Universities to the Board of Supervisors for the University of Louisiana System.

The amendment makes the current Board of Trustee's name consistent with the other higher education management boards, which have the title "Board of Supervisors".

No. 2 Re-defines the Membership of the Board of Regents (SB 57 1998 1st Ext. Session)

- ◆ The State Constitution now calls for a 15-member Board of Regents, with at least one and no more than two members appointed from each congressional district. The members are appointed by the Governor and confirmed by the Senate.
- ◆ The proposed amendment calls for two members from each congressional district and one from the state at large, appointed by the governor and confirmed by the Senate. The number of members of the board is not specified. The membership, however, must be representative of the state's population by race and gender.

This amendment is designed to address a problem that arose in recent years. Since the membership of the Board of Regents was last defined in the State Constitution, the number of congressional districts in Louisiana has been reduced because of a declining state population. The reduced number of congressional districts, along with the specific requirement for a certain number of Board of Regents members from specific areas, made it impossible to meet the requirements of the constitution. The amendment also anticipates any future changes in the number of congressional districts in Louisiana by not specifying a specific number of members of the Board of Regents.